

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 24TH JULY 2007 / 2ND SRAVANA 1929

WP(C).No. 22714 of 2007(D)

PETITIONER:

NAZEERA AHAMED, W/O. DR.K.P. AHAMED,
PALAKKAT, NILESHWAR P.O., KASARAGOD DISTRICT.

BY ADV. SRI.T.K.VIPINDAS

RESPONDENTS:

1. DISTRICT COLLECTOR, KASARAGOD DISTRICT.
2. THE DEPUTY COLLECTOR,
GRIEVENCE REDRESSAL CELL, COLLECTORATE,
VIDYA NAGAR, KASARAGOD DISTRICT.
3. ASSISTANT EXECUTIVE ENGINEER,
PWD ROAD SUB DIVISION, KANHANGAD.
4. THE TAHSILDAR,
HOSDURG, P.O. KANHANGAD, KASARAGOD DISTRICT.

BY GOVERNMENT PLEADER SRI. BENJAMIN PAUL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 24/07/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

S. SIRI JAGAN, J.

W.P.(C)NO. 22714 OF 2007

DATED THIS THE 24th DAY OF JULY, 2007

JUDGMENT

The petitioner challenges Ext.P5 notice by which the petitioner has been directed to vacate the properties mentioned therein. The contention of the petitioner is that the petitioner is not possessing any Government land so as to invoke proceedings under the Kerala Land Conservancy Act. Further she would contend that Ext.P5 has not been preceded by any notice or hearing.

2. I have heard the learned Government pleader also. The learned Government pleader could not satisfy me that before issuing Ext.P5, a notice or hearing was granted to the petitioner. Ext.P5 also does not contain any reasons as to why the emergency provisions under the Kerala Land Conservancy Act should be invoked. That being so, I am satisfied that Ext.P5 has been issued in violation of the principles of natural justice and the provisions of the Kerala Land Conservancy Act and Rules. However, if Ext.P5 is directed to be treated as a show cause notice, I need not quash Ext.P5. Accordingly, I dispose of this writ petition with the following directions.

The 3rd respondent shall treat Ext.P5 as a show cause notice. The petitioner shall file her objections to Ext.P5 within two weeks. Thereafter, the 3rd respondent shall afford an opportunity of being hearing to the petitioner, which shall include an opportunity to adduce evidence also. Considering the objections in the light of the evidence to be adduced by the petitioner, the 3rd respondent shall pass a speaking order. Till after seven days of communication of the order to be so passed the petitioner shall not be evicted from the property in question.

The writ petition is disposed of as above .

S. SIRI JAGAN, JUDGE

Acd

